

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VERONICA GUTIERREZ,
TIM FOX, ERIN WALKER and
WILLIAM SMITH, as
individual, and on behalf
of all others similarly
situated,

Plaintiffs,

Case No. CV-07-5923
WHA (JCSx)

vs.

WELLS FARGO & COMPANY;
WELLS FARGO BANK, N.A; and
DOES 1 through 125,

Defendants.

ORIGINAL

DEPOSITION OF WILLIAM SMITH, JR.

REDLANDS, CALIFORNIA

WEDNESDAY, JUNE 18, 2008

Reported By:
PATRICIA Y. SCHULER
RPR, CSR No. 11949
Job No. 90301

WILLIAM SMITH JR.

06/18/08

1 Q. Can you tell me why you were printing these
2 out?

3 A. My attorney asked me to print them out.

4 Q. Back in 2007?

5 A. Yeah. Whenever this was going on, yeah.

6 Q. Was that your attorney, Rich McCune?

7 A. That is correct.

8 Q. Let's step back. When did you first
9 become --

10 A. Well, let's make sure I remember what I am
11 looking at. This is the fireworks deal, right?

12 Q. That's right.

13 A. That is when I called. I was upset.

14 MR. MCCUNE: Well, wait. Let him pose some
15 questions.

16 THE WITNESS: Okay.

17 BY MR. JOLLEY:

18 Q. We will get that explanation, but we will do
19 it in a sort of question and answer and then your
20 attorney will be okay with it.

21 A. Okay.

22 Q. Did you initiate contact with Mr. McCune
23 about the incident that is sort of described by these
24 four documents?

25 A. Yes.

WILLIAM SMITH JR.

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1 Q. How did you know to call Mr. McCune?

2 A. My wife works for him.

3 Q. Who is your wife?

4 A. Ann Smith.

5 Q. What does your wife do?

6 A. She is Mr. McCune's assistant.

7 Q. How long has she been Mr. McCune's
8 assistant?

9 A. A long time.

10 Q. 10 years, 20 years, 100 years?

11 MR. MCCUNE: That is unnecessary.

12 MR. JOLLEY: I will withdraw 100 years.

13 MR. MCCUNE: And the 20 years?

14 MR. JOLLEY: You can have 20 years of
15 experience.

16 THE WITNESS: I am trying to remember when
17 Mr. McCune joined the firm. I will say 15 years, I
18 guess. I don't know. I am not sure.

19 BY MR. JOLLEY:

20 Q. Has Mr. McCune ever been your lawyer for any
21 other lawsuit other than this one?

22 A. No.

23 Q. Before you called Mr. McCune about the
24 overdrafts you got in July 2007, had you ever
25 discussed bank litigation or overdraft fees with

WILLIAM SMITH JR.

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1 Mr. McCune before, before you called him on this
2 subject?

3 A. Yes, I have.

4 Q. Approximately how many times? Was it a
5 common conversation?

6 A. Once.

7 Q. When would that have been?

8 A. A long time ago.

9 Q. Five years ago?

10 A. Maybe two years.

11 Q. So about a year before you contacted him
12 about the overdrafts you had in 2007; is that correct?

13 A. I would say so, yeah, roughly.

14 Q. Is that how you knew to give Mr. McCune a
15 call?

16 A. Yes.

17 Q. Did your wife suggest that you give
18 Mr. McCune a call?

19 A. No.

20 Q. When you discussed overdrafts or bank
21 litigation with Mr. McCune in the past, what was that
22 conversation about? Why did you have that
23 conversation?

24 A. I had that conversation on a similar
25 incident that happened. I had bought some stuff from

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby certify:


3 That the foregoing proceedings were taken
4 before me at the time and place herein set forth; that
5 any witnesses in the foregoing proceedings, prior to
6 testifying, were duly sworn; that a record of the
7 proceedings was made by me using machine shorthand
8 which was thereafter transcribed under my direction;
9 that the foregoing transcript is a true record of the
10 testimony given.

11 Further, that if the foregoing pertains to
12 the original transcript of a deposition in a Federal
13 Case, before completion of the proceedings, review of
14 the transcript [] was [X] was not requested.

15 I further certify I am neither financially
16 interested in the action nor a relative or employee
17 of any attorney or party to this action.

18 IN WITNESS WHEREOF, I have this date
19 subscribed my name.

20
21 Dated: JUN 25 2008

22
23 
24 PATRICIA Y. SCHULER
25 CSR No. 11949